

Atty. Docket ST02014USU (168-US-U1)

PATENT

DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

1. My residence, post office address, and citizenship are as stated below next to my name.

2. I believe I am joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

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the specification of which (check one):

- ☐ is attached hereto.
- ☒ was filed on: March 31, 2005 as
Application Serial No.: 10/530,069
- ☐ and was amended on: _____

3. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

4. I acknowledge the duty to disclose information which is material to patentability as described in 37 C.F.R. 1.56, which is defined on the attached page.

5. I hereby claim foreign priority benefits under 35 U.S.C. 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate on this invention having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)	Priority Claimed
<u>PCT/US2003/31123</u> (Number)	<u>PCT</u> (Country)
	<u>10/01/2003</u> (Day/Month/Year Filed)
	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

6. I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Prior United States Provisional Application(s)

<u>60/415,425</u> (Application Number)	<u>January 10, 2002</u> (Filing Date)
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Serial No. 10/530,069

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7. I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. 1.56, which is defined on the attached page, which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior United States Application(s)

60/415,425	January 10, 2002	Expired
(Application Serial No.)	(Filing Date)	(Status)-(Patented, pending, abandoned)

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

6. I hereby appoint Francisco Rubio-Campos (Reg. No. 45,358), Jennifer H. Hamilton (Reg. No. 41,814), Gregory B. Gulliver (Reg. No. 44,138), Jeffrey C. Wilk (Reg. No. 42,227), David P. Gloekler (Reg. No. 41,037), Kevin Flynn (Reg. No. 37,325), James Brown (Reg. No. 30,033) and other registered patent attorneys and agents of the firm The Eclipse Group, as my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith.

Please direct all correspondence to:

Jennifer H. Hamilton
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 Granada Hills, CA 91344

Please direct telephone calls to Jennifer H. Hamilton at 818.831.9431 (facsimile 818.332.4205).

Full name of first joint inventor:

~~Sunder RAMAN~~

Date: OCT 6, 2005

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Citizenship:

Serial No. 10/330,069

- 2 -

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Full name of second joint inventor: Reza ABTAHI

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Qingwen ZHANG -

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Lionel Jacques GARIN

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Citizenship: _____

Section 1.56 Duty to Disclose Information Material to Patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office, or
- (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.